

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Environmental Health Trust,)	
Consumers for Safe Cell Phones,)	
Elizabeth Barris, and Theodora Scarato,)	No. 20-1025
Petitioners)	
)	
v.)	On Petition for Review of an Order of
)	the Federal Communications
Federal Communications Commission)	Commission
and United States of America,)	
Respondents)	
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Children's Health Defense,)	
Michele Hertz, Petra Brokken,)	
Dr. David O. Carpenter, Dr. Paul Dart,)	No. 20-1138
Dr. Toril H. Jelter, Dr. Ann Lee,)	(Consolidated)
Virginia Farver, Jennifer Baran,)	
Paul Stanley, M.Ed.,)	
Petitioners)	On Petition for Review of an Order of
)	the Federal Communications
v.)	Commission
)	
Federal Communications Commission)	
and United States of America,)	
Respondents)	

**PETITIONERS' JOINT MOTION WITH RESPONDENTS' CONSENT TO
AMEND BRIEFING SCHEDULE**

All Petitioners in the above-captioned cases jointly submit this motion to amend briefing schedule in Case Nos. 20-1025 and 20-1138. Respondents United States of America and the Federal Communications Commission (collectively “FCC”) consent.

These consolidated cases involve petitions for review of the Federal Communications Commission’s (“FCC”) Resolution of Notice of Inquiry, Second Report and Order, and the Memorandum Opinion and Order, *In the Matter of Proposed Changes in the Commission’s Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields; Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies; Targeted Changes to the Commission’s Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields*, FCC 19-126, ET Docket Nos. 03-137 and 13-84, 34 FCC Rcd 11687 (rel. Dec. 4, 2019), published 85 Fed. Reg. 18,131 (Apr. 1, 2020). Petitioners Environmental Health Trust, *et al.* (collectively “Environmental Health Trust”) filed their initial Petition for Review with this Court on January 31, 2020 under Case No. 20-1025. Environmental Health Trust submitted a Protective Petition for Review on April 9, 2020. Petitioners Children’s Health Defense, *et al.* (collectively, “Children’s Health Defense”) filed its initial Petition for Review in the Ninth Circuit on February 2, 2020 under Ninth Circuit Case No. 20-70297. Children’s Health Defense submitted a Supplemental Petition for Review in the same court and under the same case number on April 2, 2020. On April 24, 2020 the Ninth Circuit granted the FCC’s Motion to Transfer the Children’s Health Defense’s Petition to this Court.

The Court received the Children's Health Defense matter and opened No. 20-1138 on April 30, 2020. By separate order on the same day it entered its order consolidating the two cases into No. 20-1025 and established a briefing schedule. On May 8, 2020, the Court granted an unopposed motion to amend briefing schedule, based on Children's Health Defense counsel's medical needs. (Doc. #1841928).

Children's Health Defense counsel has unexpected continuing health issues that are still materially inhibiting his ability to prepare the portions of the joint brief assigned to Children's Health Defense. He underwent one surgery on June 2, 2020. Another is planned for June 9, 2020. Counsel's surgeon and referring doctor had indicated the recovery period would be relatively short (a matter of a few days), but that has not proven to be the case after the June 2 procedure. Current expectations are that the recovery will be even more demanding after the second phase surgery planned for June 9, 2020, since counsel will be simultaneously attempting to heal from both procedures. The revised prognosis is that counsel will not be physically able to fully perform the tasks necessary for briefing until June 23 at the earliest. That would leave only eight days to compose and complete the portions of the Petitioners' joint principal brief that will be championed by Children's Health Defense or can only be prepared by counsel for Children's Health Defense.

Counsel for both Petitioners' groups conferred with Respondent FCC counsel to seek a two-week extension. FCC counsel replied the Commission does not oppose an accommodation given CHD counsel's health issues. The Commission, however, asked that the extension be for 4 weeks rather than 2 due to scheduling issues. Petitioners CHD and EHT do not oppose the FCC's request for the additional 2-weeks. Respondent United States of America consents to the proposed 4 week extension.

In full, the proposed amended schedule would be:

- Petitioners' Brief(s): July 29, 2020
- Respondents' Brief: September 14, 2020
- Petitioner's Reply Brief(s): October 6, 2020
- Deferred Appendix: October 16, 2020
- Final Briefs: October 30, 2020

Accordingly, for the reasons discussed above, all Petitioners respectfully request, with the consent, cooperation and agreement of the Respondents, that this Court amend the briefing schedule in this case in the manner described above.

Respectfully Submitted

/s/

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/s/

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June 8, 2020

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Motion to Amend Briefing Schedule complies with the formatting and type-volume restrictions of the rules of the U.S. Court of Appeals for the District of Columbia Circuit. The motion was prepared in 14-point, double spaced, Times New Roman font, using the current version of Microsoft Word, in accordance with Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6). The motion contains 616 words and therefore complies with Fed. R. App. P. 27(d)(2)(A).

/s/ W. Scott McCollough

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2020, I electronically filed the forgoing document with the Court by using the CM/ECF system. All parties to the case have been served through the CM/ECF system.

/s/ W. Scott McCollough